

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

KATIE MILILLO, IRENE JOHNSON,  
JANINE HELLER and TOMAYITA  
STEVENSON,

*Plaintiffs,*

vs.

WHITMAN EDUCATION GROUP,  
INC., CAREER EDUCATION  
CORPORATION, ULTRASOUND  
DIAGNOSTIC SCHOOL and LOUIS  
GIANELLI,

*Defendants.*

CASE NUMBER: 04-30130-MAP

**DEFENDANTS WHITMAN EDUCATION GROUP, INC., CAREER  
EDUCATION CORPORATION, and ULTRASOUND  
DIAGNOSTIC SCHOOL'S MOTION FOR LEAVE TO FILE REPLY TO  
PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO DISMISS  
WITH PREJUDICE COUNT FIVE OF THE COMPLAINT**

Defendants Whitman Education Group, Inc., Career Education Corporation, and Ultrasound Diagnostic School, by and through their attorneys, hereby move the Court for leave to file a reply brief, pursuant to Local Rule 7.10(b)(3), to deny Plaintiffs' request for leave to amend the Complaint, and for an order dismissing Count V of Plaintiffs' Complaint with prejudice for the reasons set forth in their Motion and the accompanying Reply Brief.<sup>1</sup>

In their opposition to Defendant' Motion to Dismiss, and without filing a separate motion, Plaintiffs requested leave to amend their Complaint to state a claim in Count V.

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<sup>1</sup> All parties have agreed to refer to the mislabeled "wrongful constructive termination in violation of public policy" as the fifth count in the Complaint.

This was a procedurally-improper effort to deprive Defendants an opportunity to respond to their request for leave, given that Defendants did not have the right to a reply as a matter of course.

Defendants now move this Court to permit them to file a reply. Plaintiffs' request for leave to amend their Complaint fail entirely to provide any specificity whatsoever of the nature of their proposed amendments. Furthermore, any apparent amendment would be futile. Accordingly, this Court should deny Plaintiff's request for leave and dismiss Count V of the Complaint.

Respectfully submitted,

Dated: December 7, 2004.

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